IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 1269 of 2005

Between:

1 M/s.Fortune Biotech Ltd., 6-6-125, Annam Gardens, Kavadiguda, Secunderabad-500 380, rep., by its Managing

Director Annam Dilip Kumar.
2 Sri Annam Dilip Kumar, s/o Sri Viswanath Rao, r/o 6-6-125, Annam Gardens, Kavadiguda, Secunderabad-

500 380.

PETITIONERS

AND

1 The State of Andhra Pradesh, rep., by the

Agricultural roduction Commissioner and

Parliamentary Secretary, Secretariat,

Hyderabad.
2 The Commissioner of Horticulture, Department

of Horticulture, Public Gardens, Hyderabad-4.
3 The Commissioner of Industries, Industries

Department, Chirag Ali Lane, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to pass an order or orders or direction or a writ more particularly one in the nature of a writ of mandamus declaring the action of the respondents in not releasing purchase order for supply of 75,000 liters of Azadirachtin (10000ppm) immediately and 20,000 liters in the month of April, 2005 and 1,12,00 liters in the month of October, 2005 in pursuance to Tender Notification No.NIT-Fruits/76/2004 dated 13-12-2004 in terms of GO Ms.No.1020 dated 30-11-1976 as arbitrary, illegal and contrary to the policy and guidelines of the State Government and consequently direct the respondents to release the purchase orders for supply of Azadirachtin (10000ppm) in favour of the petitioner company and pass such other order or orders

Counsel for the Petitioner:M/SC.KODANDA RAM

Counsel for the Respondent No.: GP FOR AGRICULTURE

The Court made the following :

O R D E R

Petitioner and eight others responded to a tender notice dated 13.12.2004 issued by the 2nd respondent for purchase of a product known as 'Azadirachtin'. The requirement of 2nd respondent was about 3,00,000 liters, in three phases. One M/s Ozone Biotech emerged as the lowest tenderer, by quoting Rs.576/- per litre. The offer of the petitioner was at Rs.645/- per litre. 2nd respondent has undertaken negotiations, after the tenders were opened. Petitioner expressed its willingness to supply the product, at the lowest rate

quoted by L1 tenderer, i.e., at rate of Rs.576/- per litre. Ultimately the 2nd respondent placed an order with M/s Ozone Biotech for supply of 70,000 litres.

2. The grievance of the petitioner is that M/s Ozone Biotech is a company having its plant outside the State and in view of the guidelines stipulated in G.O.Ms.No.1020 Industries and Commerce (SSI) Department dated 30.11.1976, petitioner, which has its plant within the State, ought to have been given priority, particularly when it offered to supply the product at the same rate. Another contention advanced is that as against the requirement of 3,37,500 litres, the lowest tenderer is in a position to supply only 70,000 litres since its plant capacity is only 1,20,000 litres. On this premise, it is urged that the petitioner ought to have been given an opportunity to supply the remaining quantity. It claims to have made a representation dated 10.1.2005 and complains that no action has been taken thereon.

3. Heard the learned counsel for the petitioner and the Government Pleader for Agriculture.

4. Though the petitioner did not emerge as the lowest tenderer, during the course of negotiations, it offered to supply the product referred to above, at the rate quoted by L1 tenderer. The circumstances, under which the 2nd respondent had chosen to place the order on M/s Ozone Biotech for a quantity of 70,000 litres, are not before this court. The fact however remains that the tender was issued for the supply of 3,37,500 litres, whereas the order was placed upon the lowest tenderer for a quantity of 70,000 litres. The schedule discloses that the supply is time bound and as of now, orders were placed for supply of a fraction of the required quantity. When the

petitioner is willing to supply the same product as per the schedule and at the lowest rate, there should not be any plausible objection for the 2nd respondent in accepting the same. If there are any obstacles in acceding to the request of the petitioners, the reasons therefor are required to be intimated.

5. Hence, the writ petition is disposed of directing the 2nd respondent to consider the representation dated 10.01.2005 submitted by the petitioner in the matter of accepting the offer of the petitioner for supply of the balance quantity of Azadirachtin and pass appropriate orders thereon, within a period of two weeks from the date of receipt of a copy of this order. No costs.

AVS ----------

07.02.2005

Note:

Issue C.C. in three days.

B/O

To

1 The State of Andhra Pradesh, rep., by the Agricultural

Production Commissioner and Parliamentary Secretary,
Secretariat, Hyderabad.

2 The Commissioner of Horticulture, Department of

Horticulture, Public Gardens, Hyderabad-4.

3 The Commissioner of Industries, Industries Department,
Chirag Ali Lane, Hyderabad.

4. Two C.Cs. to G.P. for Agriculture, A.P. High Court

Buildings, Hyderabad (OUT).

5. Two C.D. copies.